

No. 11062

United States
Circuit Court of Appeals

For the Ninth Circuit.

ALFRED LLOYD SAUNDERS,
Appellant,
vs.

UNITED STATES OF AMERICA,
Appellee.

Transcript of Record

Upon Appeal from the District Court of the United States
for the Southern District of California,
Central Division

FILED

OCT 3 - 1945

PAUL P. O'BRIEN,
CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS:

For Appellant:

ALFRED LLOYD SAUNDERS, in pro. per.

3134 W. 112th St.,
Inglewood, Calif.

For Appellee:

CHARLES H. CARR, U. S. Attorney,
JAMES M. CARTER, Assistant U. S. Attorney,
WM. P. HOUGHTON, Assistant U. S. Attorney

600 U. S. Post Office and Court House
Bldg., Los Angeles 12, Calif. [1*]

In the District Court of the United States in and
for the Southern District of California Cen-
tral Division

No.: 17677

Viol.: United States Code, Title 50, Appendix,
Section 311 Selective Training and Service
Act of 1940

February, 1945, Term

In the Name and by the Authority of the United
States of America, the Grand Jury for the South-
ern District of California, at Los Angeles, presents
on oath in open court:

That Alfred Lloyd Saunders, hereinafter called
the defendant, is a male person within the class
made subject to the Selective Training and Service
Act of 1940; that defendant registered as required
by said Act and the rules and regulations promul-
gated thereunder, and became a registrant of Local
Board No. 210, said board being then and there
duly created and acting under the Selective Service
System established under said Act in the County
of Los Angeles, State of California, in the division
and district aforesaid; that pursuant to the terms
and provisions of said Act and the rules and regu-
lations promulgated thereunder, defendant was
classified in Class 1-A and was subsequently notified
of said classification by said board, and notice and
order by said board was thereafter duly given to
defendant to report for induction into the Armed
Forces of the United States of America on Jan-

uary 2, 1945, at Los Angeles, California, for entrainment to Fort MacArthur, California; that defendant did thereafter and on or about January 5, 1945, at Fort MacArthur, Los Angeles County, California, in the division and district aforesaid, wilfully, and unlawfully fail and neglect to perform a duty required of him under said Act and the rules and regulations promulgated thereunder, in that defendant did then and there knowingly, wilfully and unlawfully refuse to be inducted into the Army of the United States, as so notified and ordered to do;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

CHARLES H. CARR

United States Attorney

ADMcE:ba [2]

A true bill,

J. W. BOWLES, Jr.

Foreman.

Bail, \$1000.

[Endorsed]: Filed Apr. 18, 1945. [3]

At a stated term, to-wit: The February Term, A. D. 1945, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Monday the 30th day of April in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Ralph E. Jenney District Judge

[Title of Cause.]

This cause coming on for arraignment and plea of the defendant Alfred Lloyd Saunders; Ray H. Kinnison, Esq., Asst. U. S. Attorney, appearing for the Government; J. J. Marquardt, Court Reporter, being present and reporting the proceedings; the defendant, being present in Court on bond, states his true name to be as charged in the indictment, and it is ordered that this cause be continued to May 7, 1945, at 2 P. M. for plea. [4]

United States District Court Southern District of
California Central Division

Case No. 17677

February 1945 Term

ALFRED LLOYD SAUNDERS

Defendant,

vs.

UNITED STATES

Plaintiff.

The defendant appears in person and hereby files notice of demurrer on the grounds as contained herein. [5]

The Selective Service System consists of three parts—The Selective Service Act, the Amendments to the Act, and the Regulations.

1. The Selective Service Act itself is the body or the ground work of the Selective Service System as originally passed by Congress of the United States.

2. The Amendments are additions to, or changes of the original Act as passed by Congress. These Amendments are legislation deemed necessary by and passed through Congress in addition to the Original act and which are now as much a part of the Act as the Act itself.

3. The Regulations are directives, or orders issued by the President or the Director of the Selective Service System. These directives are subject to change at any time that the President or Director may so desire, merely by re-writing.

These Regulations are to regulate the machinery and personnel under The Selective Service Act so that it can function with order, method and conformity to the Act. These Regulations are not law as are the Selective Service Act and Amendments which were passed through Congress. These Regulations are to promulgate the law of the Act as granted by Congress therein.

Thus the Director of the Selective Service System nor the President, cannot make a Regulation, which will nullify some section of the Selective Service Act and hand it down as law. These Regulations are only regulations under the law and have to conform with the Selective Service Act.

Therefore, since a bill has to be passed by Congress in order to become a law, a Regulation cannot be a law. [6]

Section 5-G of the Selective Service and Training Act of 1940, states—"Nothing contained in this act shall be construed to require any person to be subject to combatant training and service in the land and naval forces of the United States, who by religious training and belief is conscientiously opposed to participation of war in any form."

This is the law of the Selective Service and Training Act of 1940 as approved and passed by Congress. It was passed this way in order not to violate the first Amendment of the Bill of Rights of the Constitution of the United States, which reads as follows:—"Personal Freedom,—Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press;

or the right of the people peaceably to assemble and to petition the government for a redress of grievances.”

In the Jury Trial of Criminal Case No. 16215 on October 11, 1943, — Saunders vs. United States, the defendant was indicted for “failing to report for induction into the armed forces of the United States.” By the prosecutions own witnesses it was definitely proved that the defendant had reported for induction, thus leaving no grounds for a case against the defendant. The District Attorney seeing his plight asked the presiding Judge to “read into the indictment” against the defendant, thus:—“And refusing to be inducted into the armed forces of the United States.” This, the Judge refused to do and instructed the District Attorney that if he wanted the indictment to read that way he would have to have a new indictment made to read as such. This, the district attorney [7] informed the Judge was impossible, because there was no law which required a Conscientious Objector to submit to induction into the armed forces of the United States.

The Judge granted this and told the District Attorney that the purpose of his court was to pass judgment upon the defendant as to the actual reading of a legal indictment.

By the Constitution and by the Selective Service and Training Act itself, there is no law which states that a Conscientious Objector must serve in the armed forces of the United States. In fact, quite the opposite as previously stated, e.g. Section

5-G of the Selective Service and Training Act of 1940 and the first Amendment of the Bill of Rights of the Constitution of the United States.

Also by the rules of Jesus there are no laws which uphold the view that a Christian shall be forced or required to join the armed forces of any land. In fact there are Jesus' rules and laws to the contrary, e.g. the Sixth Commandment which consists of four small, easy to understand words which say, "Thou shall not kill," and in Matthew 26-52—Jesus says, "For all they that take the sword shall perish with the sword." It is a known fact that Christ does not support the strength of the sword and does not support destruction and bloodshed, which is war,—waged by the armed forces. Jesus says, in Matthew 6-24—"No man can serve two masters." A follower of Christ cannot take an oath to serve the armed forces and so do and still serve Christ as a Christian. This I honestly and firmly believe.

One cannot take the oath of the army and wear the uniform of that organization which is dedicated to destruction and bloodshed and in my mind is organized sin against the way of God; and still keep an oath to Christ and wear the uniform of christianity which is dedicated to the construction of peace and brotherly love here on earth. [8]

This gives us a clear cut line between two separate and distinctly different ways of life here on earth; One the way of Christ, to work with his construction crew to build peace and brotherly love

—: or, the other—to “string along” with a man-made organization which is dedicated to destruction and bloodshed, the killing of hundreds, of millions of women, children, and men alike, no discrimination: This is the wrecking gang. Thus I choose to work with the construction crew under Jesus instead of the wrecking gang under the forces of evil and destruction and I cannot reconcile myself to any other course.

War sows the seeds of hate, greed, selfishness and distrust, the grounds upon which unity, trust, brotherly love and peace can never be built. This I solemnly and firmly believe.

My argument and sincere belief is that the United States Constitution, the Selective Service Act, the Ten Commandments, and the laws and rules of Jesus Christ, grant me the privilege of deciding whether I conscientiously object to war in any form. No individuals comprising a draft or appeal board, nor the temporal military head of a temporal state of affairs, have the right nor the power to say that I am not conscientiously objected to war in any form—when I know that I am.

If Congress cannot make no law respecting an establishment of religion or prohibiting the free exercise thereof—then surely an individual cannot so do by writing a Regulation. By such an illegal Regulation the prosecution is trying to convict me and brand me a criminal. This Illegal Regulation was written after the Criminal trial of Case No. 16215, previously mentioned. That trial was lost by the prosecution in an attempt to confiscate the

personal freedom, the constitutional and religious rights of the [9] defendant and to brand the defendant as a criminal. And now,—by a similar method, of unconstitutionality and in his equivocal and audacious way, he is trying to accomplish that which he previously failed to do.

Since, as shown by the above facts, there is no law, but only an illegal Regulation which requires a Conscientious Objector to be inducted into the armed forces of the United States, there is no constitutionally legal grounds for an indictment against the defendant “for refusing to be inducted into the armed forces of the United States.” The defendant hereby moves to have this indictment dismissed by this Court.

Signed 5/2/45

ALFRED LLOYD SAUNDERS

Received copy of within Demurrer this 2nd day of May, 1945

CHARLES H. CARR, HKM
United States Attorney,

[Endorsed]: Filed May 2, 1945. [10]

At a stated term, to-wit: The February Term, A. D. 1945, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Monday the 7th day of May in the year

of our Lord one thousand nine hundred and forty-five.

Present: The Honorable Ralph E. Jenney, District Judge.

[Title of Cause.]

This cause coming on for demurrer and plea of defendant Alfred Lloyd Saunders; Wm. P. Haughton, Assistant U. S. Attorney, appearing as counsel for the Government; the said defendant being present in propria persona and on bond; and O. E. Abbott, Court Reporter, being present and reporting the proceedings:

The defendant upon arraignment by the Court states his true name is as set forth in the Indictment, and being informed that he is entitled to a jury trial and to be represented by counsel, and that if he is without funds that the Court will appoint an attorney for him, the defendant states he desires to proceed without counsel, and without a jury. The demurrer is overruled and the defendant pleads not guilty. It is ordered that trial of the cause be, and it hereby is, set for 10 A. M., May 8, 1945, without a jury. [11]

At a stated term, to-wit: The February Term, A. D. 1945, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Tuesday the 8th day of May in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable Ralph E. Jenney, District Judge.

[Title of Cause.]

This cause coming on for trial of defendant Alfred Lloyd Saunders; Wm. P. Haughton, Assistant U. S. Attorney, appearing as counsel for the Government; the said defendant being present on bond and in propria persona; and Sam Goldstein, Court Reporter, being present and reporting the proceedings; and both sides answering ready, it is ordered to proceed.

Miss Betty M. Herrell is called, sworn, and testifies on direct examination by Attorney Haughton. Gov't Exhibits 1, 2, 3, and 4 are offered and admitted in evidence.

Stuart Nalls is called, sworn, and testifies on direct examination by Attorney Haughton. Gov't Exhibit 5 is offered and admitted in evidence.

The Government rests. The defendant moves for a directed verdict of not guilty which is denied.

Alfred Lloyd Saunders, defendant, is sworn and testifies in his own behalf. Gov't Exhibit 6 is offered and admitted in evidence.

The Court finds the defendant guilty.

The Court makes a statement and refers the case to the Probation Officer for investigation and report and continues the case until 2 P. M., May 21, 1945, and orders that the defendant remain on his present bond. [12]

At a stated term, to-wit: The February Term, A. D. 1945, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Monday the 21st day of May in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable Ralph E. Jenney, District Judge.

[Title of Cause.]

This cause coming on for hearing report of the Probation Officer and for sentence of defendant Alfred Lloyd Saunders; Wm. P. Haughton, Assistant U. S. Attorney, appearing as counsel for the Government; the said defendant being present on bond and in propria persona; and H. P. Fursdon, Court Reporter, being present and reporting the proceedings:

The Court pronounces sentence upon the defendant as follows:

* * * * * Judgment (counts 3 and 4 dismissed)

* * * * * [13]

District Court of the United States Southern District of California, Central Division.

No. 17677—Criminal

UNITED STATES

v.

ALFRED LLOYD SAUNDERS

Indictment in one count for violation of U.S.C., Title 50, Secs. 311.

JUDGMENT AND COMMITMENT

On this 21st day of May, 1945, came the United States Attorney, and the defendant Alfred Lloyd Saunders appearing in proper person, and having been advised of his constitutional right to counsel and having been asked whether he desired counsel assigned by the Court, replied that he did not, and,

The defendant having been convicted on verdict of guilty of the offense charged in the Indictment in the above-entitled cause, to wit: on or about January 5, 1945, at Fort MacArthur, California, unlawfully refuse to be inducted into the Army of the United States, as so notified and ordered to do, and the defendant having been now asked whether he has anything to say why judgment should not be pronounced against him, and no sufficient cause to the contrary being shown or appearing to the Court, It Is by the Court

Ordered and Adjudged that the defendant, having been found guilty of said offenses, is hereby

committed to the custody of the Attorney General or his authorized representative for imprisonment for the period of eighteen months in a Federal Road Camp type of institution, to be chosen by the Attorney General of the United States.

It Is Further Ordered that execution of sentence is stayed for two weeks and that defendant remain on present bond.

It Is Further Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the same shall serve as the commitment herein.

(Signed) RALPH E. JENNEY

United States District Judge.

The Court recommends commitment to Federal Road Camp at Tucson, Arizona.

Filed this 21st day of May, 1945.

(Signed) EDMUND L. SMITH

Clerk.

By P. D. HOOSER,

Deputy Clerk. [14]

[Title of District Court and Cause.]

NOTICE OF APPEAL

Appellant's Address: Alfred Lloyd Saunders,
3134 W. 112th Street, Inglewood, California.

Offense: Refusing to be inducted into the army
of the United States.

Date of Judgment:—May 21, 1945.

Brief Description of Judgment and Sentence:
Guilty—Eighteen months in road camp type of
Federal prison institution.

I, the above named Appellant, hereby appeal to
the United States Circuit Court of Appeals for the
9th Circuit from the Judgment above mentioned
on the grounds set forth below.

ALFRED LLOYD SAUNDERS.

GROUND OF APPEAL

That the indictment was illegal and unconstitutional for reasons stated in the demurrer to the indictment.

That the trial was contrary to the 1st and 5th Amendment of the United States Constitution and Section 5g of the Selective Service and Training Act of 1940.

That the trial was also contrary to the United States Supreme Courts reasoning and judgment in the Falbo and Billings Case.

That the Court claimed it did not have power to review, nor change the draft boards' decision, even though registrant did report.

ALFRED LLOYD SAUNDERS.

Recd. Notice of Appeal May 22/45.

CHAS. H. CARR

per J. M.

[Endorsed]: Filed May 22, 1945. [17]

[Title of District Court and Cause.]

AFFIDAVIT FOR ENLARGEMENT OF TIME

Wm. P. Haughton, being first duly sworn, deposes and says:

That he is the Assistant United States Attorney who tried the above-entitled case for the Government and is in charge of the preparation of the Bill of Exceptions in the appeal of this case.

That the date of Judgment herein was May 21, 1945. That a Reporter's Transcript of the proceedings had and taken at the trial of the above-entitled case has been ordered by the Government; that the Government has been advised that due to the temporary absence from this division of the court reporter said transcript will not be available before June 22, 1945. That by reason thereof it will be necessary for appellee to have additional time within which to file and cause to be settled the Bill of Exceptions in the above-entitled cause and appeal.

Wherefore, affiant prays that this Honorable Court extend the time [18] to and including July 7, 1945 within which to lodge proposed amendments to appellant's proposed Bill of Exceptions herein, and that the District Court have to and including July 14, 1945 to settle and engross the same.

WM. P. HAUGHTON

Affiant

Subscribed and sworn to before me this 16 day
of June, 1945.

[Seal]

EDMUND L. SMITH

Clerk

By CHARLES A. SEITZ

Deputy

[Endorsed]: Filed June 18, 1945. [19]

[Title of District Court and Cause.]

ORDER ENLARGING TIME

Upon reading the affidavit of Wm. P. Haughton,
and good cause appearing therefor,

It Is Hereby Ordered that the time within which
appellee may lodge amendments to the proposed
Bill of Exceptions and Assignments of Error be
enlarged to and including July 7, 1945, and that
the Court may have to and including July 14, 1945
within which to settle the same.

Dated: June 16, 1945.

RALPH E. JENNEY

United States District Judge

[Endorsed]: Filed June 18, 1945. [20]

[Title of District Court and Cause.]

STIPULATION RE EXHIBITS

It Is Stipulated that the Exhibits in the above entitled case may be forwarded by the Clerk of the District Court to the Clerk of the Circuit Court, and that said exhibits may be deemed part of the record on appeal and need not be printed as part of the record on appeal.

Dated this 10th day of July, 1945.

ALFRED SAUNDERS

Defendant-Appellant

CHARLES H. CARR

United States Attorney

JAMES M. CARTER

Assistant U. S. Attorney

WM. P. HAUGHTON

Assistant U. S. Attorney

By WM. P. HAUGHTON

Attorneys for Plaintiff-

Appellee

It is so ordered July 12, 1945.

RALPH E. JENNEY

Judge

[Endorsed]: Filed July 12, 1945. [21]

[Title of District Court and Cause.]

PRAECIPE

To the Clerk of the District Court of the United States, in and for the Southern District of California, Central Division.

You will please prepare the following record in the above-entitled cause for the Ninth Circuit Court of Appeals;

Clerk's Transcript as follows:

1. Indictment;
2. Demurrer to Indictment;
3. Minutes of May 7, 1945 on overruling of demurrer and showing defendant entered plea of not guilty to the charge contained in the indictment;
4. Minutes of May 8, 1945 on oral motion for a verdict and on denial of said motion;
5. Verdict of the Court;
6. Judgment and sentence;
7. Notice of Appeal; [22]
8. Bill of Exceptions and Assignments of Error;
9. This Praecipe.

Dated this 11th day of July, 1945.

CHARLES H. CARR

United States Attorney

JAMES M. CARTER

Assistant U. S. Attorney

WM. P. HAUGHTON

Assistant U. S. Attorney

By WM. P. HAUGHTON

Attorneys for Plaintiff-

Appellee

[Endorsed]: Filed July 12, 1945. [23]

In the District Court of the United States Southern
District of California Central Division

CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 23 inclusive contain full, true and correct copies of Indictment; Minute Order Entered April 30, 1945; Demurrer; Minute Orders Entered May 7, 1945, May 8, 1945 and May 21, 1945 respectively; Judgment and Commitment; Notice of Appeal; Affidavit for Enlargement of Time; Order Enlarging Time; Stipulation and Order re Exhibits; and Praeceptum which, together with Original Bill of Exceptions, Assignment of Errors and Exhibits, transmitted herewith, constitute the

record on a appeal to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify that my fees for preparing, comparing, correcting and certifying the foregoing record amount to \$7.25 which sum has been paid to me by appellant.

Witness my hand and the seal of said District Court this 21 day of July, 1945.

[Seal]

EDMUND L. SMITH,

Clerk

By THEODORE HOCKE

Chief Deputy Clerk

[Title of District Court and Cause.]

GOVERNMENT'S PROPOSED BILL OF
EXCEPTIONS.

Be It Remembered that the above entitled cause came on for hearing on Demurrer to the indictment and for plea of defendant, on May 7, 1945 before the Honorable Ralph E. Jenney, presiding in Courtroom No. 3 of the District Court of the United States for the Southern District of California, Central Division, sitting without a jury.

The United States of America, Plaintiff, appearing by Charles H. Carr, United States Attorney, and William P. Haughton, Assistant United States Attorney, and the defendant appearing In Propria Persona.

The following proceedings were had:

“The Clerk: No. 17677 Criminal, United States vs. Alfred Lloyd Saunders.

The Court: Mr. Saunders, you do not desire counsel? You understand your legal rights—if you haven’t money you are entitled to have counsel appointed and you are also entitled to the right of trial by a jury, if you wish, you understand that?

The Defendant: Yes.

The Court: I think I can explain this thing to you so that you will understand it. The indictment charges that, pursuant to the terms and provisions of the Selective Training and Service Act of 1940 and the rules and regulations promulgated thereunder, you were classified 1-A and were notified of said classification by local board 210; that thereafter you were ordered to report for induction into the Armed Forces of the United States on January 2nd, 1945, at Los Angeles, and that you knowingly, wilfully and unlawfully refused to be inducted into the Army of the United States after having been notified and ordered so to do. You understand that is the charge in this indictment?

The Defendant: Yes.

The Court: In your demurrer you refer to the jury trial of October 11, 1943, in 16215, wherein you were indicted for failing to report for induction into the Armed Forces of the United States. This file contains only the indictment and a copy of Judge Harrison’s minute order of November 27, 1943, wherein he ordered, on the motion of the Assistant United States Attorney, that the indictment in that case and six others be dismissed pur-

suant to authority received from the Attorney General. Apparently you are referring to Case No. 16275 against you, wherein a jury trial was had on October 19, 1943, is that correct?

The Defendant: Yes.

The Court: You state in your demurrer that by the prosecution's own witnesses in Case 16215 it was definitely established that the defendant had reported for induction, thus leaving no grounds to support the case against you; that the District Attorney asked the Presiding Judge to read into the indictment "And refusing to be inducted into the Armed Forces of the United States", which the Judge [2] refused to do, stating there would have to be a new indictment. You do not designate the section number of the regulation you refer to as illegal, but you say it was written after the trial in Case 16215. Apparently you are referring to 663.21 (b) (5), as this section was amended, effective January 10, 1944, to read, "Upon reporting for induction it shall be the duty of the registrant * * * to submit to induction".

The Defendant: Yes.

The Court: I think you misunderstand why the trial was lost by the prosecution in Case 16215. It was only because of the failure of proof under the charge of the indictment in that particular case. I cannot help but disagree with your contention that the regulation violates the Act and the Constitution, nor do I agree with your contention that the regulation is not the law. Under the circum-

stances I must overrule your demurrer, and I have given it my very careful consideration. You are entirely familiar with the indictment, as you have read it and studied it in order to prepare your demurrer?

The Defendant: Yes. I do not know whether this is unusual in court procedure, but I would like to ask the Court if my trial might be set aside for appeal, pending my appeal, and I remain out on bail.

The Court: Why don't you do this—saving your rights—why don't you go on to trial and take the whole thing up at one time? If you go up on this demurrer you would have to stand trial, anyway. It seems the questions of fact are not very complicated. Why don't you just simply have those things decided as questions of fact and then take them all up with the Circuit Court, and then you will have a clean-cut case?

The Defendant: Well, I would like if the Court will permit me here, I would like to read a couple of phrases out of the Falbo case and the Billings case, which is merely dicta, but nevertheless, which signifies one should have the right to have this reviewed by the courts. [3]

The Court: I haven't any objection to your doing it. Would you like to have some counsel? I think you said you did not care to have counsel appointed for you.

The Defendant: No, I feel very deeply I am right in my convictions. Of course, I may not be, but I feel as long as I am able to speak for myself

that I can speak more freely than I could have someone do for me.

The Court: You understand that you may be 100 per cent right in your convictions, that you may be doing exactly what your convictions dictate, but you still may be wrong technically under the law, you understand that?

The Defendant: Yes.

The Court: I am familiar with these cases, but you call my attention to them if you wish to.

The Defendant: In Part 1 in the Falbo case—it is dicta, of course—but I would like to read from the Supreme Court decision in that case.

The Court: Anything the Supreme Court says is interesting.

The Defendant: “The mobilization system which Congress established by the Act is designed to operate as one continuous process for the selection of men for national service.”

And on down further it says:

“If he has been clasified for military service his local Board orders him to report for induction into the Armed Forces. If he has been classified a conscientious objector, opposed to non-combatant military service, as was petitioner, he ultimately is ordered by the local board to report for work of national importance. In each case the registrant is under the same obligation to obey the order. But in neither case is the order to report the equivalent of acceptance for service.”

The footnote states: [4]

“No man shall be inducted for training and service under this Act unless and until he is acceptable to the land or naval forces for such training and service and his physical and mental fitness for such training and service has been satisfactorily determined. We are informed by the government that pursuant to this section approximately 40 per cent of the selectees who report under orders of local boards for induction into the Armed Forces are rejected, and that, as of October 15, 1943, 610 of the 8,000 selectees who had reported for civilian work of national importance had been rejected.

“Even if there were, as the petitioner argues, the constitutional requirement that judicial review must be available to test the validity of the decision of the local board, it is certain that Congress was not required to provide for judicial intervention before final acceptance of an individual for national service.”

In the Billings case handed down two months later, there is a statement along the same lines of reasoning:

“It should be remembered that he who reports at the induction station is following the procedure outlined in the Falbo case for the exhaustion of his administrative remedies. Unless he follows that procedure he may not challenge the legality of his classification in the courts.”

To me that seems that the order to report, being different than an acceptance, that one would have to follow through the classification system set up by Congress in order to acquire the validity test in

the courts of the United States, under the Constitution—the Fifth Amendment to the Constituion. In other words, it seems to me the reasoning of the Supreme Court there is very definite, that one who follows that continuous process of Selective Service up to the last stage, as they decided in the Falbo case—which is to report—is entitled to a review of his case in the courts of the United States. [5]

The Court: Mr. Tietz, will you come forward? Mr. Horowitz, will you please come forward? Would you two distinguished members of the bar act as friends of the Court in this matter? It is my suggestion that this boy go to trial, it being my understanding that if the indictment is improper that he will not lose any of his rights; I having overruled his demurrer, he can go to trial and then take it up and determine the entire matter. Do you think that is a sound view?

Mr. Horowitz: No question about it. I think he should merely take an exception on the overruling of the demurrer, and I do not think he has any right to appeal on the demurrer alone.

The Court: What is your reasoning, Mr. Tietz?

Mr. Tietz: I would like to disqualify myself. Mr. Saunders has been in our office.

The Court: I am asking you as a friend of the Court if you think that procedure is sound, in order to protect the fundamental rights of this man.

Mr. Tietz: I see no rights he would waive by that course of action.

The Court: I think the thing for you to do—maybe I am wrong—but I think the thing for you

to do is to go to trial tomorrow morning and let this matter be in shape so that you can have it reviewed. I will give you an exception to my ruling, and let's put the trial on for 10:00 o'clock tomorrow morning and have the record complete. Then you can go up with something you may be able to protect yourself on. The facts are so simple that no additional time is needed for preparation.

The Defendant: The only thing is if I do have a trial I would like to see if I could remain out on bail.

The Court: I can take care of that. I am not tough about that. I wanted these distinguished lawyers to assure me that your interest was protected and I was not in any way involving you. We will go to trial tomorrow morning at 10:00 o'clock, before me.

I did not mean to ignore you, Mr. Haughton, and I did not want to embarrass you. [6]

Mr. Haughton: Has a plea been entered?

The Court: You are familiar with the indictment?

The Defendant: Yes.

The Court: Do you waive the reading of the indictment?

The Defendant: Yes.

The Court: You understand if you have no money to pay for it, that you are entitled to have counsel appointed and have a trial by jury?

The Defendant: Yes.

The Court: Or you can waive a trial by jury and have a trial by the Court?

The Defendant: Yes.

The Court: Are you ready to plead?

The Defendant: Yes.

The Court: What is your plea?

The Defendant: Not guilty.

The Court: Do you wish a trial by jury or without a jury?

The Defendant: No, I think you are fair.

The Court: Is that satisfactory to the government, to waive the jury?

Mr. Haughton: That is satisfactory to the government.

The Court: We will go to trial tomorrow morning at 10:00 o'clock, before me.''

The above entitled cause came on for trial on May 8, 1945 before Honorable Ralph E. Jenney, presiding in Courtroom No. 3 of the District Court of the United States for the Southern District of California, Central Division, sitting without a jury.

The United States of America, Plaintiff, appearing by Charles H. Carr, United States Attorney, and William P. Haughton, Assistant United States Attorney, and the defendant appearing In Propria Persona.

The following proceedings were had and the following evidence, both oral and documentary, was received, to wit: [7]

MISS BETTY M. HERRELL

called as a witness on behalf of the Government, having been first duly sworn, examined and testified as follows:

My name is Miss Betty M. Herrell. My occupation is Chief Clerk of Local Board No. 210, which is in the City of Los Angeles and County of Los Angeles. I have been Chief Clerk of the Board since July of 1944 and have been in Selective Service since 1941. Local Board No. 210 is set up under the Selective Service System. There are three members on the board. They receive no compensation. I am acquainted with defendant Alfred Lloyd Saunders. He is a registrant of Local Board No. 210. As Chief Clerk of Local Board No. 210 I have custody and charge of all the records and files of the registrants of that Board. This is the original registration card of defendant Alfred Lloyd Saunders. At the time of registration he gave as his address, 4252 Creed Avenue, Los Angeles. That address is within the jurisdiction of Local Board No. 210.

The Government introduced into evidence the registration card of the defendant, which was marked and received in evidence as Government's Exhibit No. 1. (Said exhibit was certified to the Circuit Court of Appeals pursuant to stipulation of the parties.)

This is the Selective Service questionnaire of this defendant in his file with my Board. It was made out, signed and filed by this defendant. He

(Testimony of Miss Betty M. Herrell.)

was classified in 1-A on May 22, 1944. Notice of such classification was mailed by me to defendant on May 23, 1944. He appealed the 1-A classification. The Appeal Board confirmed the 1-A classification. Notice of that action was mailed to defendant on December 5, 1944.

The questionnaire referred to was marked as Government's Exhibit No. 2 and was received in evidence. (Said exhibit was certified to the Circuit Court of Appeals pursuant to stipulation of the parties.)

This paper entitled him to Individual Appeal Record. It is the appeal record of the defendant. It shows the action by the Appeal Board and is a part of the records and files of this registrant with my Board.

The document referred to is marked as Government's Exhibit No. 3 and was received in evidence. (Said exhibit was certified to the Circuit Court of [8] Appeals pursuant to stipulation of the parties.)

Thereafter the defendant was ordered to report for induction by Local Board No. 210. On December 19, 1944 he was mailed an Order to Report for Induction on January 2, 1945. This is a copy of the original which was mailed to defendant.

The document referred to was marked as Government's Exhibit No. 4 and was received in evidence. (Said exhibit was certified to the Circuit Court of Appeals pursuant to stipulation of the parties.)

(Testimony of Miss Betty M. Herrell.)

Thereafter I received information from Fort MacArthur that this defendant had reported down there but refused to be inducted.

STUART C. NALLS,

called as a witness by and on behalf of the Government, having first been duly sworn, examined, and testified as follows:

I am a Special Agent for the Federal Bureau of Investigation and was such on March 27, 1945. On that date I had an interview with the defendant in this case, Alfred Lloyd Saunders. He stated to me that he had reported to Fort MacArthur on or about January 2, 1945; had been asked to return on a later date, January 5, 1945, at which time he did return. He stated that at that time he left the Induction Station before completing the induction, and after informing a Sergeant at the Induction Center that he was not going to take the oath of induction into the armed services of the United States, inasmuch as he was a Conscientious Objector. At the time of the interview I took a written statement from the defendant to that effect. No promises or threats were made in connection with the statement. This document, consisting of two pages, dated March 27, 1945, is the statement referred to. The signature appearing at the end is the signature of Alfred Saunders. It was signed in my presence.

(Testimony of Stuart C. Nalls.)

The document referred to was marked as Government's Exhibit No. 5 and was received in evidence. (Said exhibit was certified to the Circuit Court of Appeals pursuant to stipulation of the parties.)

“Mr. Haughton: The government rests.

The Court: I think in order to protect yourself on your demurrer, [9] you had better move for a verdict in your favor on the evidence, before you proceed, in order to protect your position on the ground that the indictment doesn't state a crime, and for the other reasons indicated in your demurrer. Do you so move?

The Defendant: I do, your Honor.

The Court: That will be denied and exception allowed. Now you may safely go ahead. Do you wish to take the stand yourself?

The Defendant: Yes. [9a]

ALFRED LLOYD SAUNDERS

called as a witness in his own behalf, having been first duly sworn, examined, and testified as follows:

In reporting of the Induction Station I feel that it is my duty to obey the law up to the point where it interferes with a man's conscience and I feel that under the Constitution of the United States I have a right and a privilege to refuse to enter any form of killing of my brother mankind; and I feel that

(Testimony of Alfred Lloyd Saunders.)

under the circumstances I am taking my right as granted me by the Constitution, the Selective Service Act, and the laws of God. I do not believe that killing and bloodshed and war will accomplish the settlement of man's arguments between man and between nations. I think that will just about state my feelings, combined with the reasons that I have given you in my demurrer, and my reasoning based upon the decisions of the Supreme Court in the Falbo and the Billings cases, which I believe, although I may be wrong, support my thinking. I attended the University of California and while there took R. O. T. C. For some time I worked for the Douglas Aircraft plant in the making of airplanes to be used in this war. When taking R. O. T. C. in college, it was a very good experience and one of the factors in making my belief as it is today; and also, my experience in the aircraft factory, as to the feeling of my fellowmen with whom I worked, toward the war, and the effects of the war, and so on. I quit there of my own volition.

"The Court: Do you have any further testimony you wish to introduce? Do you have anything further you wish to bring before the Court?

The Defendant: Just a couple of things, your Honor.

In my time, the classifications I have received from the board, I have again and again asked the board members—and had appointments with them—asked for my classification as a conscientious

(Testimony of Alfred Lloyd Saunders.)

objector, which have been refused, and which if I had been granted I would not have turned down. It isn't the fact that I don't believe in supporting the law as passed by Congress and the United States. I believe that they have seen fit to recognize the conscience of the individual above that of the temporal state, and have so passed the Act under the Constitution. [10]

Of course, they have done their best in classifying me as they saw fit. I don't doubt their belief and sincerity in so classifying me; but at the same time, I do not believe that one man can come up to another man and tell him whether he is opposed to war or whether he believes in war, in killing, and in bloodshed. It is more or less up to the individual.

The Court: As I understand your position, your position is that you are a conscientious objector; that the board declined to so classify you, and classified you a 1-A; that had they so classified you, you would have been perfectly willing to have gone to a conscientious objector's camp as provided by law?

The Defendant: That's right. And at the same time, I appeared in court once before and was forcibly taken over by the M. P.'s and spent seven months in the Army guardhouse and stockade, when at any time if I would have accepted the Army principles I would have been released from the guardhouse or the Army stockade.

The Court: When was that?

(Testimony of Alfred Lloyd Saunders.)

The Defendant: That was in '42 and '43. I spent two months in Fort MacArthur and five months at Camp Haan in Riverside. And at that time my contention was that I was still under civilian authorities and not the Army authorities; and upon my appeal to the Circuit Court at San Francisco, it was upheld with the return of the Billings case, and I was freed on a writ of habeas corpus.

The Court: Then you were again brought up for reclassification before the draft board?

The Defendant: Yes, sir. I did not believe I was in the wrong. I could have at any time admitted that I was wrong and have accepted the Army principles in the Medical Corps or otherwise; but I do not feel that a Christian can wear the uniform of Christianity and still serve the United States in the temporal state and wear that uniform, because Christianity or the laws of Christ do not support killing and destruction. [11]

The Court: Since you were incarcerated by the Army in the guardhouse, did you file a conscientious objector's form before the draft board?

The Defendant: I did that when I registered.

The Court: You did that when you registered?

The Defendant: Yes, sir.

The Court: And did you again appear before the draft board in support of your contention that you were a conscientious objector?

The Defendant: I did, sir.

The Court: You had a hearing before the draft board?

(Testimony of Alfred Lloyd Saunders.)

The Defendant: Yes. And I explained to them there that I could not accept the Army; that if I felt I was right in so doing I could have done so then and wouldn't have had to stay for seven months in the Army guardhouse. I also explained to them while not becoming a part of the organized forces that at the same time I could accept a C. O. classification because that does not involve the killing of men and women and children by the thousands, and that by accepting the Army I absolutely felt that I was a part of it.

The Court: Well, the difficulty with the situation is this: This court has no power to review classifications of the draft board. I might feel very firmly that you were a conscientious objector and should have been so classified and should have gone to a conscientious objector's camp as the law provides in the exercise of the congressional discretion, but if the draft board and the organization set up under the directive from the Congress by the Executive Branch of the government feels otherwise there is nothing I can do insofar as your being guilty or innocent of this particular crime, so long as I do not feel that technically your position is sound from the legal standpoint on your demurrer and your motion for a directed verdict.

If you are both through with your case——

Mr. Haughton: If the Court please, I would like to ask two or three more questions, inasmuch as the subject of classification has been [12] entered into.

(Testimony of Alfred Lloyd Saunders.)

I would like, also, to introduce the entire file of the draft board, which has the full record.

The Court: There is no objection to the file of the draft board going in?

The Defendant: Not at all.

The Court: It may be received, and you may ask Mr. Saunders what you wish to ask him."

The entire file of the draft board was then introduced and received in evidence and marked as Government's Exhibit No. 6. (Said exhibit was certified to the Circuit Court of Appeals pursuant to stipulation of the parties).

ALFRED LLOYD SAUNDERS,

called as a witness in his own behalf, having been previously duly sworn, resumed the stand and testified further as follows:

Cross Examination—(Continued)

"By Mr. Haughton:

Q. You used the word "Christianity" once or twice in your statement. You do not belong to any church, do you? A. I do not.

Q. You never belonged to any church, did you?

A. With the exception of my affiliation with the Friends of Reconciliation.

Q. You are a member of an organization known as the Fellowship of Reconciliation? A. Yes.

Q. That organization——

(Testimony of Alfred Lloyd Saunders.)

The Court: You must do it audibly so he will get it. The answer was Yes?

The Witness: Yes.

Q. By Mr. Haughton: That organization is a pacifist organization, is it not?

A. It is an organization that is against war among mankind of any kind and for the reconciliation of the differences of mankind through [13] non-violent actions.

Q. The last time you were in court and the time you mentioned when you were held under military authorities, you had a hearing before the hearing officer of the Department of Justice, did you not? A. That's right.

Mr. Haughton: That is all, if the Court please.

The Court: The file has been stipulated into the record, and it may be marked in evidence.

The Clerk: Government's No. 6.

The Defendant: Were the—well, that is all right.

The Court: Go ahead. Don't be afraid. You can say whatever you have in your mind. You are entitled to your day in court. I want you to say what you want to say.

The Defendant: As to the hearing officer's report and the F. B. I. reports, I feel that they are unjustified and have no basis of proof in the court as to bearing upon my questions.

The Court: That statement is predicated upon this thought, as I understand it: You believe that a man may be a conscientious objector within the

(Testimony of Alfred Lloyd Saunders.)

meaning of the Congress when it passed the Selective Service Act and provided for such classification, regardless of the fact that he is not a Jehovah Witness, or a Presbyterian, or a Catholic, or a Quaker, or belongs to any other organized church; that he may be just as good a conscientious objector without belonging to any organized group? So far that is your position?

The Defendant: Yes, sir.

The Court: And that you showed your conscientious objector's viewpoint when you were originally classified, by filing a conscientious objector's form; that you substantiated that position when you refused to accept the discipline of the Army and spent some seven months in the guard-house, when all you had to do was to accept a non-combatant status in the military forces and work in the hospital? [14]

The Defendant: Yes.

The Court: That you feel the reports of the F. B. I. and the hearing officer were not predicated upon sound reasoning or upon a proper grasp of the evidence which you brought up?

The Defendant: Yes, sir.

The Court: Further than that, you state that you are willing to accept a classification of conscientious objector and are willing to subject yourself to the discipline of the camp as provided for by the law, is that correct?

The Defendant: That's right.

(Testimony of Alfred Lloyd Saunders.)

The Court: I think you were in court yesterday when I discussed several of these cases, and when I indicated what my belief was on the law. I will, briefly, repeat it.

I believe the Congress in time of war has the power to do what it proposed to do by the Selective Service Act. I believe that it had the right to delegate the setting up of the organization to accomplish the purpose to defend the country in war to the Executive Branch of the government; that the President had the right to set up the organization that he did set up; and that the right to determine the classifications is in the draft board; that I, as a Judge of the United States District Court, have no right, no power, under the law, to review that action of the draft board, provided it shows on its face that the regular administrative processes were carried out.

In this proceeding I haven't any choice. On the evidence you are guilty of the offense charged. I then have to consider what your punishment is going to be under the circumstances.

I want to send this matter to the Probation Officer for a complete report and recommendation.

Are you out on your own recognizance or out on bond?

The Defendant: I am on bond now.

The Court: Well, the bond will just be continued and I will ask you to report to the Probation Office and give them a complete record, [15] so that

(Testimony of Alfred Lloyd Saunders.)

it will be in the file, and the matter will be continued until 2:00 o'clock on the afternoon of a week from next Monday, and then I will determine what sentence to mete out under the circumstances.

The Defendant: Yes, sir.

The Court: I think I understand your position. I think you understand mine, too.

The Defendant: Yes, sir, your Honor, but at the same time I feel, also, that you are not only the judge but the jury of the court as well, and that it is your privilege to act so, and I wanted to, in my explanation in regard to the F. B. I. investigations—from what I understand, in court such accusations or references that they make are ordinarily supported by proof. That is what I meant.

The Court: I think maybe I didn't make that clear. I don't think that, so far as this case is concerned, it made any difference if the F. B. I. Agent hadn't gone on the stand at all. I could ignore that testimony entirely and just take the record and your statement, and as a matter of law I have no choice, you still, technically, are guilty under the law.

So, if there is anything prejudicial in that F. B. I. testimony, you don't need to worry about that at all, because it is not necessary to a determination of this case. However, all of those matters are matters which will be of interest to me when I come to impose sentence, and you should make your statement to the probation officer so it will come to me,

(Testimony of Alfred Lloyd Saunders.)

and I will have a full picture before me. Is that clear?

The Defendant: Yes, sir. Pardon me. The only thing was—another thing I wanted to mention was I expect to try to appeal my case upon the grounds that I believe——

The Court: Indicated in the demurrer?

The Defendant: Yes, sir.

The Court: I think we may consider that you have made your motion for a verdict for the same reasons that you indicated in the demurrer prior to any finding of guilty. May it be so stipulated?

Mr. Haughton: So stipulated, your Honor.

The Court: So your record is protected, and you can take the matter up on that ground.

You are entitled to appeal and the Circuit is entitled to hear the matter and determine it once and for all.

Did you prepare your papers on the appeal yourself in the habeas corpus matter?

The Defendant: No, sir.

The Court: It was Wirin and Tietz that took that case up?

The Defendant: Yes.

The Court: And the Circuit Court of Appeals reversed the District Court, did it not?

The Defendant: Yes, sir.

The Court: Who heard the case in the District Court?

The Defendant: Judge Yankwich.

(Testimony of Alfred Lloyd Saunders.)

The Court: I knew the case and knew the name but I hadn't put you and that case together. I didn't realize you were the Saunders in that case.

You have got a clean-cut issue now.

The Defendant: There is only one thing, I was interested in carrying the case up myself.

The Court: I think you have a perfect right to take your case up yourself. I don't know of anything in the way of regulations that would prevent that. Do you, Mr. Haughton?

Mr. Haughton: No, your Honor.

The Court: You go ahead. Mr. Smith in the Clerk's office will give you all the help you need. It is a very simple affair.

The Defendant: That is, just to verify my statement yesterday for having the trial set aside—

The Court: I think you and Mr. Haughton can save yourselves a lot of work on the appeal, because I think Mr. Haughton and you can sit down and stipulate to the questions that are to go up to the Circuit. [17] It is a clean-cut proposition; there is no conflict in the evidence. There it is, and I think you can save yourself and the Clerk's office a tremendous amount of work, don't you, Mr. Haughton?

Mr. Haughton: I think so, your Honor.

The Court: It is all right. It is a good thing to have the Circuit pass on it. There isn't anything difficult about it.

Have you got a copy of the rules of the Circuit Court of the Ninth Circuit on Appeal?

(Testimony of Alfred Lloyd Saunders.)

The Defendant: No, I don't.

The Court: Mr. Smith in the Clerk's office will give you a copy. If he hasn't one, you can borrow mine.

We will stand adjourned.

(Whereupon, on May 8, 1945, at 10:50 o'clock
an adjournment was taken until May 21, 1945,
at 2:00 o'clock p. m.)

Los Angeles, California, Monday, May 21, 1945.
2:00 P. M.

The Clerk: 17677, United States vs. Alfred
Lloyd Saunders.

The Court: Mr. Saunders, I think I understand
your case pretty well by now. Is there anything
further you would like to add to what you have
already told us?

The Defendant: No.

The Court: I will just say the same thing to
you that I said to the previous defendant. I don't
think there is anything I can do. The sentence
of the court is that you serve a term of 18 months
in a Federal Road Camp type of institution to be
designated by the Attorney General or his author-
ized representative. The court recommended that
you be committed to the Federal Prison Camp at
Tucson, Airzona.

Do you want a little time before you start
serving?

The Defendant: Yes. I would like to ask, if I may, to have the sentence satisfied or to be allowed to be out on bail or otherwise so that I may appeal my case higher. It seems to me, your Honor, that [18] since this country was established by the people who were denied their religious beliefs in other parts of the world——

The Court: I am willing to give you any reasonable length of time to protect your appeal. Two weeks ought to be enough to do that. I can't leave you out indefinitely while you perfect your appeal.

The Defendant: I would be willing to be let out on bail.

The Court: You can get that from the Circuit Court when you perfect your appeal. Have you served your notice of appeal or anything like that?

The Defendant: No. I was informed they could not be served until judgment.

The Court: Yes, that is true.

The Defendant: I would be willing to work in any hospital or otherwise where you might see fit pending the appeal to the Circuit Court.

The Court: Suppose I stay the execution of sentence for a period of two weeks, and in the meantime you perfect your appeal and then you make an application to the Circuit Court of Appeals for release pending appeal. It will be under their jurisdiction.

The Defendant: That would not be within your power to grant, other than that, that is, with me working in a hospital or some other place which the court might see fit?

The Court: I don't think I would have the power to do that. I think that I could admit you to bail on appeal, but when you are admitted to bail then that would be up to you as to what you did. What you are going to do might have considerable effect upon whether I put you on bail or not.

The Defendant: I want to appeal the case to the Circuit Court, and, if you desire, at the same time to be working at any hospital which the court might see fit, which I believe would be of more good to the country than being incarcerated. [19]

The Court: Well, I will stay the execution of that sentence for a period of two weeks. You go ahead and perfect your appeal and then I will see what I can do.

The Defendant: Thank you.

The Clerk: He remains on the present bond?

The Court: Yes."

The foregoing Bill of Exceptions was prepared within the time allowed by law as extended, and correctly sets forth the proceedings and evidence in connection with said trial, and therefore settled, allowed and approved.

Dated: This 12th day of July, 1945.

RALPH E. JENNEY

Judge of the United States
District Court.

[Endorsed]: Filed July 13, 1945.

[Title of District Court and Cause.]

STIPULATION

It Is Hereby Stipulated that the foregoing Bill of Exceptions is correct and may be allowed. That a copy of the same was received.

Dated: July 10th, 1945.

ALFRED SAUNDERS

Defendant-Appellant

CHARLES H. CARR

United States Attorney

JAMES M. CARTER

Assistant U. S. Attorney

WM. P. HAUGHTON

Assistant U. S. Attorney

By WM. P. HAUGHTON

Attorneys for Plaintiff-

Appellee

[Title of District Court and Cause.]

ASSIGNMENT OF ERRORS

1. That the indictment was illegal and unconstitutional and the demurrer should have been sustained.

2. That the trial was contrary to the First and Fifth Amendments of the United States' Constitution and Section 5g of the Selective Service and Training Act of 1940, which was intentionally worded so as not to violate the First Amendment of the Constitution of the United States.

3. That the trial was also contrary to the United States Supreme Court's reasoning and judgment in the Falbo and Billings Case.

4. That a Court does have the right to review draft board decisions and right the wrongs committed by these draft board decisions.

ALFRED LLOYD SAUNDERS.

[Endorsed]: Filed June 11, 1945.

[Endorsed]: No. 11062. United States Circuit Court of Appeals for the Ninth Circuit. Alfred Lloyd Saunders, Appellant, vs. United States of America, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Southern District of California, Central Division.

Filed July 23, 1945.

PAUL P. O'BRIEN

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.